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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,036	12/13/2000	Roger P. Hoffman	P/2-79	6629

7590 12/27/2005
PHILIP WEISS
WEISS & WEISS
310 OLD COUNTRY ROAD
SUITE 201
GARDEN CITY, NY 11530



EXAMINER

POND, ROBERT M

ART UNIT PAPER NUMBER

3625

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

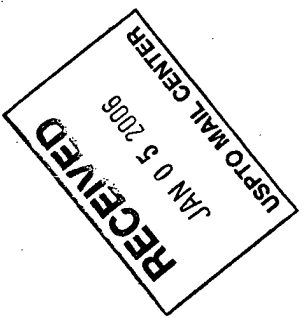
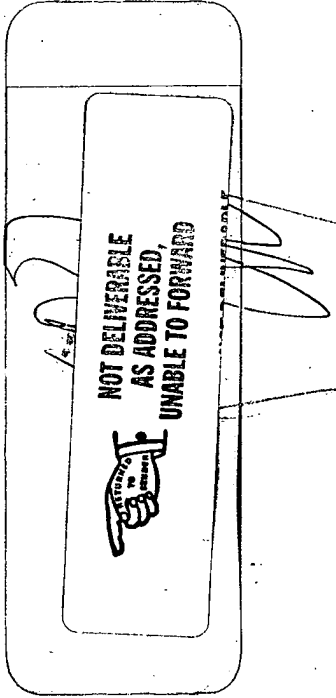
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AN EQUAL OPPORTUNITY EMPLOYER



Office Action Summary

Application No.

09/736,036

Applicant(s)

HOFFMAN, ROGER P.

Examiner

Robert M. Pond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The Applicant canceled claim 3, amended claims 1, 7, and 8, and based arguments on amended claim language. All pending claims (1, 2, 4, 6-13, and 15) were examined in this final office action necessitated by amendment.

Response to Arguments

Applicant's arguments filed 06 October 2005 have been fully considered but they are not persuasive. Depicting anything in 3-dimensional form to provide a more realistic rendering of an object is notoriously old and well-known in the arts. Furthermore, Tavor teaches the use of 3-D and animation to make the shopping experience more enjoyable (see at least abstract). Laufer provides a pertinent teaching on 2-D and 3-D renderings to provide more realistic renderings of objects. Regarding Greef, a shopper submits personality information to the system, which in turn helps configure a shopper persona that is used by the sales agent selected by the shopper (i.e. providing information to said virtual sales agent by said user). Pertaining to personal data, Greef and Tavor teach storing and using personal shopper information. Additional information such as hobbies, business history is just additional data.

Pertaining to Official Notice (ON1, ON2, and ON3)

The Applicant did not traverse the examiner's assertion of official notice on the specific merits of the official notice. The common knowledge or well-known in the art statements are taken to be admitted prior art because applicant failed to traverse or adequately traverse the examiner's assertion of official notice (MPEP 2144.03(C)).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 1. Claim 7 is rejected under 35 USC 102(e) as being anticipated by Greef (Paper #20050328, US 6,032,129).**

Greef teaches all the limitations of Claim 7. For example, Greef discloses a system and method of providing a virtual shopping experience for an online shopper. Greef discloses the shopper selecting a sales agent to assist in the shopping experience (see at least Fig. 2 (203, 204)). Greef further discloses:

- *logging into a database*: shopper accesses the online electronic catalog (see at least Fig. 2 (205, 207);

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- entering a password or other information that can be identified by the database: shopper configures customer actor to represent the shopper to the system; system manages an electronic catalog (please note: a database) (see at least Fig. 2 (205, 206A); col. 4, lines 24-36).
- choosing a virtual sales agent from the database: computer-based sales agent commissioned by shopper to provide assistance; shopper chooses sales agent (see at least Fig. 2 (206); Fig. 5 (509); col. 4, lines 55-67). Please note: shopper submits personality information to the system which in turns helps configure a shopper persona that is used by the selected sales agent (i.e. providing information to said virtual sales agent by said user).
- providing information to said virtual sales agent: (see at least Fig. 1 (140, 150, 160, 170) Fig. 2 (205, 206); col. 4, lines 55-60).
- sales agent provides information to database: sales representative creates customer personas and affinities (e.g. gender preferences of product, age preferences of products) (see at least Fig. 2 (204); col. 3, line 67 through col. 4, line 15).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at

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the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 2, 6, and 11 are rejected under 35 USC 103(a) as being unpatentable over Tavor (Paper #20050328, US 6,070,149) in view of Lauffer (Paper #20050328, US 6,223,165).**

Tavor teaches a system and method of providing an online customer with the assistance of a virtual sales representative or a human sales representative (see at least abstract; Fig. 1; col. 1, line 5 through col. 4, line 9). Tavor further teaches:

- providing information from a sales agent to a computer database: virtual sales representatives interacts with online customers, asks a customer questions and receives answer, wherein customer's responses to queries are stored (see at least col. 3, lines 5-18; col. 9, lines 50-55; col. 10, lines 54-59); storing past transactions, storing past responses (see at least col. 15, lines 57-62; col. 19, lines 17-18); price and quantity (see at least col. 13, line 65; col. 22, lines 1-65).
- logging into the computer database by the client: customer accesses the product database; log file maintained (see at least col. 3, lines 5-67).
- determining from where the client is logging: motivates responses to questions about demographic data and personal data about the customer; (e.g. inquires where a customer lives geographically) (see at least col. 12, lines 38-47).

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- providing past business transactions: customer can see summary of products purchased (see at least col. 33, lines 38-40).
- providing further information: the virtual sales representative asks questions to narrow decision making to motivate the customer to make a purchasing decision (see at least col. 11, lines 1-47); information provided via web site or email or telephone (please note examiner's interpretation: any telephone number- e.g. hard line, cellular or other wireless device) (see at least col. 3, lines 28-30; col. 23, line 63 through col. 24, line 1).
- Credit, shipping: credit information (please note: billing information) (see at least col. 23, lines 5-18).
- Sales agent age and gender: (see at least col. 35, lines 43-51); customer chooses from a variety of virtual sales representative (see at least col. 35, lines 52-57).

Tavor teaches all the above as noted under the 103(a) rejection and teaches a virtual sales representative or human sales representative selling products and/or services with characteristics including but not limited to pricing, quantity, and availability, but does not disclose quality. Lauffer teaches a) a system and method of connecting a consumer seeking advice from an expert in an online environment, b) communicating using web, TV, cell phones, personal computers, c) using quality to distinguish potential experts providing services, and further teaches the consumer making a purchasing decision based on quality of a

potential purchasable service (see at least col. 2, line 56 through col. 4, line 24; col. 6, lines 54-58; col. 9, line 5-14). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Tavor to disclose quality as purchase decision criteria as taught by Lauffer, in order to help a virtual sales representative provide additional criteria for purchase decision making by customers, and thereby attract customers to the service desiring quality products.

Tavor teaches all the above as noted under the 103(a) rejection and teaches 3-D and animation to make the experience more enjoyable, but does not disclose a three-dimensional representation of a sales agent. Lauffer teaches 3-D graphics and further teaches an expert using online avatars to represent themselves with the additional option of the voice and facial expression of the expert transmitted to the consumer via the avatar (see at least col. 6, lines 62-67; col. 7, lines 31-40). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Tavor to implement a 3-D representation of an online entity helping an online customer as taught by Lauffer, in order to provide a visual representation, and thereby attract customers to the service desiring human quality visual interaction.

3. **Claim 4 is rejected under 35 USC 103(a) as being unpatentable over Tavor (US 6,070,149) and Lauffer (US 6,223,165), as applied to claim 1,**

further in view of Official Notice (regarding old and well known, hereinafter referred to as "ON3").

Tavor and Lauffer teach all the above as noted under the 103(a) rejection and teach storing the customer's past purchase information and collecting shipping data, but do not disclose whether current orders have been received. The Examiner takes the position that it is old and well known for business transactions to convey shipped product received by the customer as having been received in order to accurately record the status of the purchased product for buyer-seller use. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Tavor and Lauffer to convey shipped product received by the customer as having been received as taught by ON3, in order to accurately record the status of the purchased product for buyer-seller use, and thereby attract customers and sellers to the service.

- 4. Claims 8, 9, and 15 are rejected under 35 USC 103(a) as being unpatentable over Tavor (Paper #20050328, US 6,070,149) in view of Greef (Paper #20050328, US 6,032,129).**

Tavor teaches a system and method of providing an online customer with the assistance of a virtual sales representative or a human sales representative (see at least abstract; Fig. 1; col. 1, line 5 through col. 4, line 9). Tavor further teaches:

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- providing information from a sales agent to a computer database: virtual sales representatives interacts with online customers, asks a customer questions and receives answer, wherein customer's responses to queries are stored (see at least col. 3, lines 5-18; col. 9, lines 50-55; col. 10, lines 54-59); storing past transactions, storing past responses (see at least col. 15, lines 57-62; col. 19, lines 17-18); price and quantity (see at least col. 13, line 65; col. 22, lines 1-65).
- logging into the computer database by the client: customer accesses the product database; log file maintained (see at least col. 3, lines 5-67).
- determining from where the client is logging: motivates responses to questions about demographic data and personal data about the customer; (e.g. inquires where a customer lives geographically) (see at least col. 12, lines 38-47).
- providing past business transactions: customer can see summary of products purchased (see at least col. 33, lines 38-40).
- providing further information: the virtual sales representative asks questions to narrow decision making to motivate the customer to make a purchasing decision (see at least col. 11, lines 1-47); information provided via web site or email or telephone (please note examiner's interpretation: any telephone number- e.g. hard line, cellular or other wireless device) (see at least col. 3, lines 28-30; col. 23, line 63 through col. 24, line 1).

- Credit, shipping: credit information (please note: billing information) (see at least col. 23, lines 5-18).
- Sales agent age and gender: (see at least col. 35, lines 43-51); customer chooses from a variety of virtual sales representative (see at least col. 35, lines 52-57).

Tavor teaches all the above as noted under the 103(a) rejection and teaches storing personal shopper data into a database but does not specifically disclose providing information from a sales agent to a computer database before a client logs onto the computer database. Greef teaches a system and method of providing a virtual shopping experience for an online shopper and making recommendations to the shopper based on shopper personal data. Greef teaches the shopper selecting a sales agent to assist in the shopping experience (see as least Fig. 2 (203, 204)). Greef further teaches the sales agent providing information to a computer database before a client logs on the computer (see at least col. 3, line 67 through col. 4, line15). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Tavor to have a sales agent provide information to a computer database before a client logs on the computer as taught by Greef, in order to leverage past shopper behavior, and thereby make better recommendations based on current and past shopping experiences.

- 5. Claim 10 is rejected under 35 USC 103(a) as being unpatentable over Tavor (US 6,070,149) and Lauffer (US 6,223,165), as applied to Claim 1, further in view of Official Notice (regarding old and well known, hereinafter referred to as "ON1").**

Tavor and Lauffer teach all the above as noted under the 103(a) rejection and teach a) collecting customer demographic information (e.g. age, location, gender), b) phrasing questions to extract personal information about children (e.g. "When my child was 8 years old I bought her a teddy bear...") (see at least col. 12, lines 45-47)), and further teaches responding to queries to help make the customer make a purchasing decision. Tavor and Lauffer, however, do not disclose asking other personal questions. The Examiner takes the position that it is old and well known in the arts to ask a potential buyer's about special interests in hobbies, sports, or other family interests to ascertain buyer-seller commonality and buyer's desire for products to support personal interests. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system of Tavor and Lauffer to disclose other types of questions to extract other information about a customer's personal life as taught by ON1, in order to ascertain the customer desires for product, and thereby increase sales.

- 6. Claim 12 is rejected under 35 USC 103(a) as being unpatentable over Tavor (US 6,070,149) and Greef (Paper #20050328, US 6,032,129), as applied**

to Claim 8, further in view of Official Notice (regarding old and well known, hereinafter referred to as "ON2").

Tavor and Greef teach all the above as noted under the 103(a) rejection and teach a) a virtual sales representative interacting in with an online customer by providing requested information and asking question to obtain information about the customer, and b) demographic information (e.g. Isreal), but do not disclose providing the customer weather information. The Examiner takes the position that it is old and well known that weather motivates buyers to make purchasing decisions. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Tavor and Greef to provide weather information as taught by ON2, in order to motivate the customer to make a purchasing decision, and thereby increase sales.

7. **Claim 13 is rejected under 35 USC 103(a) as being unpatentable over Tavor (Paper #20050328, US 6,070,149) and Greef (Paper #20050328, US 6,032,129), as applied to claim 8, further in view of Official Notice (Paper #20050328, regarding old and well known, hereinafter referred to as "ON3").**

Tavor and Greef teach all the above as noted under the 103(a) rejection and teach storing the customer's past purchase information and collecting shipping data, but do not disclose whether current orders have been received. The Examiner takes the position that it is old and well known for business transactions to convey shipped product received by the customer as having been

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received in order to accurately record the status of the purchased product for buyer-seller use. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Tavor and Greef to convey shipped product received by the customer as having been received as taught by ON3, in order to accurately record the status of the purchased product for buyer-seller use, and thereby attract customers and sellers to the service.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

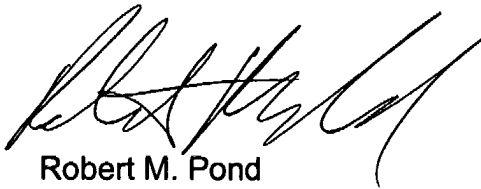
US 6,070,142 (McDonough et al.) 30 May 2000; teaches a virtual customer sales and service method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 703-605-4253. The examiner can normally be reached on 8:30AM-5:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert M. Pond
Primary Examiner
December 22, 2005

Notice of References Cited

Application/Control No.

09/736,036

Applicant(s)/Patent Under

Reexamination

HOFFMAN, ROGER P.

Examiner

Robert M. Pond

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U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,070,142	05-2000	McDonough et al.	705/7
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.